

CITY OF ALAMEDA

Memorandum

To: Honorable Mayor and
Members of the City Council

From: Lisa Goldman
Acting City Manager

Date: May 17, 2011

Re: Introduce an Ordinance Amending Ordinance No. 1277, N.S. to Rezone
Approximately .06 Acres Located at 1348 Weber Street APN 073
039702600 From C-1, Neighborhood Business to R-4, Neighborhood
Residential Zoning Designation

BACKGROUND

On April 25, 2011, the Planning Board unanimously recommended that the City Council rezone the subject site to bring the existing residential use into conformance with the zoning ordinance. The property owner is requesting the rezoning of the property because of her difficulty selling the property due to its non-conforming use. When the property owner purchased the property in 1952 it was residentially zoned.

The subject site is one parcel, approximately 2,738 square feet in size that contains a duplex residential structure. The existing structure was constructed in 1909 and has been in continuous residential use. The existing C-1 zoning designation does not allow ground floor residential use.

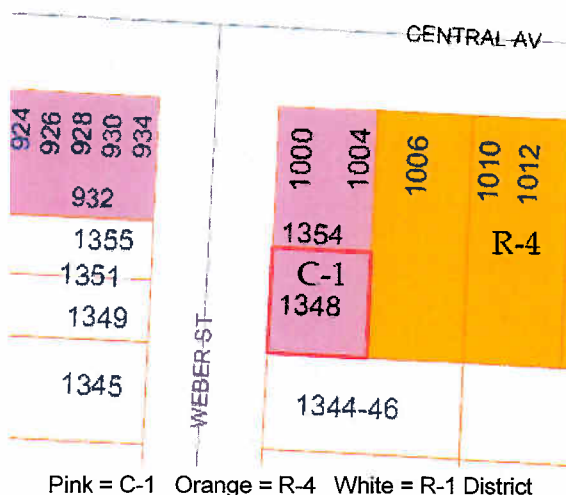


Figure 1: Current Zoning Map detail



Figure 2: 1348 Weber (center of photo)

In early Alameda zoning codes, residential uses were permitted by right in the former "business district class 5" zone. In 1958, the site zoning was changed to C-1 as part of a substantial expansion of the neighborhood commercial district. The C-1 zoning district allows residential uses in conjunction with nonresidential uses, but they are not permitted on, "ground floor spaces considered suitable for business use; and that new structures devoted solely to residential use shall not be permitted." (AMC 30-4.8.c.1). This change in zoning rendered the ground floor residential use of the subject site nonconforming. Pursuant to current zoning (AMC 30-20.4, Changes to and Restoration of Nonconforming Buildings and Uses), no building may be rebuilt if over 70% destroyed, unless it is changed to conform to the AMC regulations specified for that district.

In the last five decades, several of the residential properties that were included in the C-1 district have been rezoned to residential. In 1982, the two properties directly opposite Weber Avenue (1349 and 1451 Weber) were rezoned from C-1 to R-1 to match other residential properties on that block. Later in 1992 three properties (935, 939, and 1006 Central Avenue) were rezoned from C-1 to R-4. In both cases, the rezoning acknowledged and brought into conformance the pre-existing residential uses of the properties.

DISCUSSION

The project site is currently zoned C-1, Neighborhood Business. Amending the site's zoning designation to R-4, Neighborhood Residential, is required to bring into conformance the existing solely residential structure. The proposed zone change to R-4 is consistent with the adjacent residential property to the rear. The R-4 designation is recommended because the existing structure is a duplex and would be a non-conforming use if rezoned R-1.

The proposed amendment would ensure that the zoning for the site is consistent with the historic and current use. The current General Plan designation, Neighborhood Business, allows the residential use of the property. "Residential use is encouraged on the second floor and is permitted elsewhere" (General Plan page 2-3). Under the proposed zoning, the current owner and any future owners of the property will have the ability to rebuild and preserve the existing residential use if the structure is destroyed by more than 70% (AMC 30-20.3).

The proposed amendments are consistent with General Plan policy to "conserve housing located in areas that have been zoned for commercial or industrial use" (General Plan Policy 2.4.b). Furthermore, City of Alameda Housing Element Policies promote the conservation and rehabilitation of the City's existing housing stock.

In conclusion, staff recommends that the City Council approve of the rezoning of 1348 Weber Street to R-4 for the following reasons:

- The rezoning will bring into conformance an existing residential duplex on the property, providing the ability to rebuild the structure if destroyed.

- The adjacent properties to the east and south are zoned R-4 and R-1 respectively.
- An R-4 designation would make the existing duplex a conforming use whereas an R-1 designation would not.

FINANCIAL IMPACT

There is no financial impact from this project; application fees shall cover staff time and material costs.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

Municipal Code standards prescribing Planning Board and City Council action on Amendments to zoning and the General Plan are contained in the Alameda Municipal Code (AMC), Section 30-22 (Amendments and Procedures).

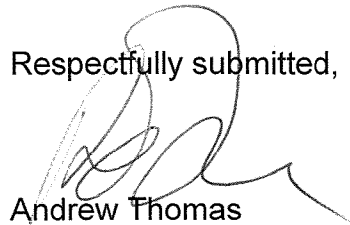
ENVIRONMENTAL REVIEW

This project is exempt from environmental review pursuant to the Guidelines for the California Environmental Quality Act (CEQA) Section 15305 – Minor Alterations in Land Use Limitations, because the project involves changing the zoning to reflect the current residential use of the property and will not change the allowed density, or the existing use, of the site.

RECOMMENDATION

Introduce an ordinance amending ordinance No. 1277, N.S. to rezone an approximately 2,738 square foot parcel located at 1348 Weber Street APN 073 039702600 from C-1, Neighborhood Commercial to R-4, Neighborhood Residential zoning designation.

Respectfully submitted,



Andrew Thomas
Planning Services Manager

Exhibit:

1. Planning Board Resolution PB-11-09

CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. PB-11-09

RECOMMENDATION TO THE CITY COUNCIL THAT THE CITY OF ALAMEDA ADOPT REZONING, (PLN11-0046) FOR ONE PARCEL LOCATED AT 1348 WEBER STREET (APN 073 039702600). THE SITE IS LOCATED WITHIN A NEIGHBORHOOD COMMERCIAL ZONING DISTRICT.

WHEREAS, an application was made on February 25, 2011, by Lieselotte Coler-Dark, requesting a Rezoning of an existing site developed with a duplex dwelling currently designated C-1, Neighborhood Commercial District; and

WHEREAS, the application was accepted as complete on March 03, 2011; and

WHEREAS, the subject property is designated as Neighborhood Commercial on the General Plan Diagram; and

WHEREAS, the subject property is a residence located in a C-1, Neighborhood Commercial Zoning District; and

WHEREAS, the applicant requests a Rezoning from Neighborhood Commercial to R-4, Neighborhood Residential; and

WHEREAS, the proposed Rezoning would support the residential use of the site; and

WHEREAS, the Planning Board held a duly noticed public hearing on April 11, 2011 to consider the proposed Rezoning; and

WHEREAS, the Planning Board has made the following findings relative to the proposed rezoning from C-C, Community Commercial District to R-5, General Residential:

1. **The proposed rezoning does not affect the integrity of the General Plan.** The General Plan definition of the Neighborhood Business District states, "Residential use is encouraged on the second floor and is permitted elsewhere" (General Plan page 2-3). Therefore, the designation of an existing residence as residential district would not conflict with the permitted uses of the Neighborhood Business District.
2. **The proposed rezoning does not adversely affect the general welfare of the community.** The proposed rezoning will preserve existing housing stock. The subject property is now and historically has been used as a residential structure. The proposed rezoning is consistent with the use of this property and will allow continued investment in the property, which is currently prohibited due to the

Page 1 of 3

nonconforming status of the property. The rezoning will not result in substantial changes to the existing use and will therefore be compatible with neighboring residential uses.

3. **The proposal is equitable.** The proposal to rezone a parcel to match the adjacent residential uses is equitable in that the existing nonconforming residential use, that was previously zoned residential, shall be made conforming. The City has previously rezoned adjacent properties for the same reason.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Board of the City of Alameda hereby determines that the Rezoning does not present a significant effect on the environment and is Categorically Exempt from further environmental review pursuant to the Guidelines for the California Environmental Quality Act (CEQA) Section 15305 – Minor Alterations in Land Use Limitations, because the project involves changing the zoning to reflect the current residential use of the property and will not change the allowed density of the site.

BE IT RESOLVED that the Planning Board of the City of Alameda hereby recommends to the City Council that it adopt an Ordinance approving the Rezoning, changing the zoning district from C-1, Neighborhood Commercial Zoning District to R-4, Neighborhood Residential District, as shown in Exhibit A to this resolution, subject to compliance with the following conditions:

- (1) **HOLD HARMLESS.** The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, its Redevelopment Agency, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda Redevelopment Agency, Alameda City Planning Board and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Community Development Department, Alameda City Planning Board, the City of Alameda Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code Section 66020 (d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the

dedications, reservations and exactions. The applicant is hereby further notified that the 90-day appeal period, in which the applicant may protest these fees and other exactions, pursuant to Government Code Section 66020 (a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of Section 66020, the applicant will be legally barred from later challenging such fees or exactions.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by filing with the Planning and Building Department a written notice of appeal stating the basis of appeal and paying the required fees.

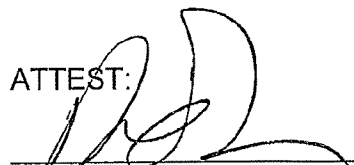
I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 25th day of April, by the following vote to wit:

AYES: (5) Ezzy Ashcraft, Ibsen, Kohlstrand, and Zuppan

NOES: (0)

ABSENT: (2) Autorino and Lynch

ATTEST:



Andrew Thomas, Secretary
City of Alameda Planning Board

* * * * *

EXTERNAL CORRESPONDENCE

The City Clerk's Office received the
attached external correspondence
on 5-12-11 regarding
**Agenda Item #6-A on the
5-17-11 Regular City Council Agenda**

May 6, 2011

Honorable Mayor & City Council

c/o City Clerk's Office

City of Alameda, City Hall

2263 Santa Clara Avenue, Rm. 380

Alameda, CA 94501

Dear Mayor & City Council:

As residents of the 1300 block of Weber Street, we affirm by signatures our support to rezone 1348 Weber Street APN 073 039702600 From C-1, Neighborhood Commercial to R-4, Neighborhood Residential Zoning Designation.

C. Wayne Ashcraft

Name

Arthur W. Lenhardt

Name

John McCormick

Name

Axin McCormick

Name

SALLY BECK

Name

DAVID BLOSSARD

Name

DAVID SHUTT

C. Wayne Ashcraft

Signature

[Signature]

5/7/2011

Date

5-7-11

Signature

[Signature]

Date

5/7/2011

Signature

[Signature]

Date

5/7/11

Signature

[Signature]

Date

5/7/11

Signature

[Signature]

Date

5/7/11

Signature

[Signature]

Date

5.7.11

Name

CAROLYN OTTIS

Signature

Carolyn Ottis

Date

5/7/11

Name

ROGER GILKERSON

Signature

R G Gilkerson

Date

5/7/11

Name

Sudan Kumer
1370 Weber

Signature

S Kumer

Date

5/7/11

Name

VAKIL KUMER
1370 Weber

Signature

Vakil Kumer

Date

5/7/11

Name

Colleen Tajiri

Signature

Colleen Tajiri

Date

5/7/11

Name

Diana L. Rivard

Signature

Diana L. Rivard

Date

5/7/11

Name

Earl Rivard III

Signature

Earl Rivard

Date

5/7/11

Name

EARL J. RIVARD SR

Signature

EJ Rivard

Date

5/7/11

Name

YUMI YASUDA

Signature

Yumi Yasuda

Date

5/7/11

Name

Signature

Date

C. W. Aschcraft
1325 Weber St.
Alameda, CA 94501

Clerk's Office

Hon. Mayor & City Council
c/o City Clerk's Office, City Hall
2263 Santa Clara Avenue, Rm. 380
Alameda, CA 94501

OAKLAND, CA 94612

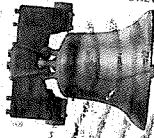
18 MAY 2011 PM 3:11

RECEIVED

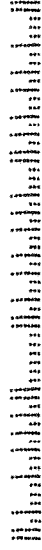
2011 MAY 12 A 7:42

CITY OF ALAMEDA
CITY CLERK'S OFFICE

USA FIRST-CLASS FOREVER



945014453



CITY OF ALAMEDA ORDINANCE NO. _____
New Series

AMENDING ORDINANCE NO. 1277, N.S. TO REZONE
APPROXIMATELY 0.06 ACRES LOCATED AT 1348 WEBER
STREET APN 073 039702600 FROM C-1, NEIGHBORHOOD
BUSINESS ZONING DISTRICT, TO R-4, NEIGHBORHOOD
RESIDENTIAL ZONING DESIGNATION

BE IT ORDAINED by the City Council of the City of Alameda that:

Section 1: Section 11-116 of Ordinance No. 1277, N.S. is hereby amended by reclassifying all the real property situated within the City of Alameda, County of Alameda, State of California, consisting of 0.06 acres and located at 1348 Weber Street as shown on the attached Exhibit A from C-1 Neighborhood Business to R-4 Neighborhood Residential.

Section 2: The above amendment shall be known as and referenced to as Rezoning Amendment No. 213 to Ordinance No. 1277, N.S.

Section 3: This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the City Council

Attest:

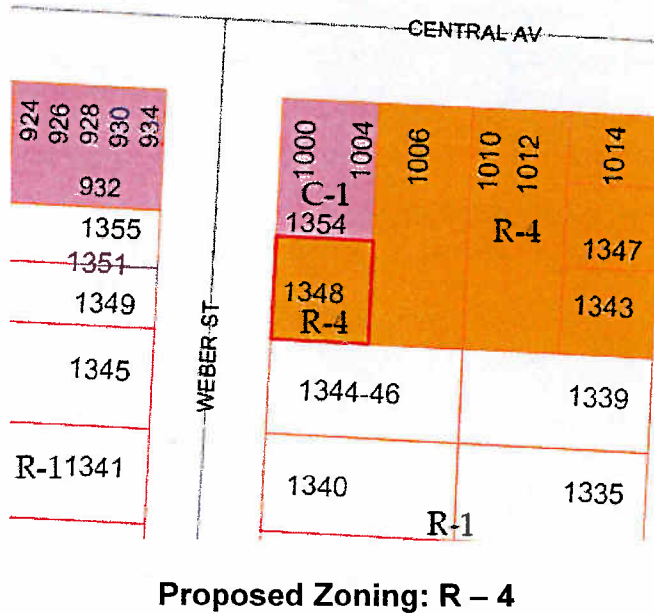
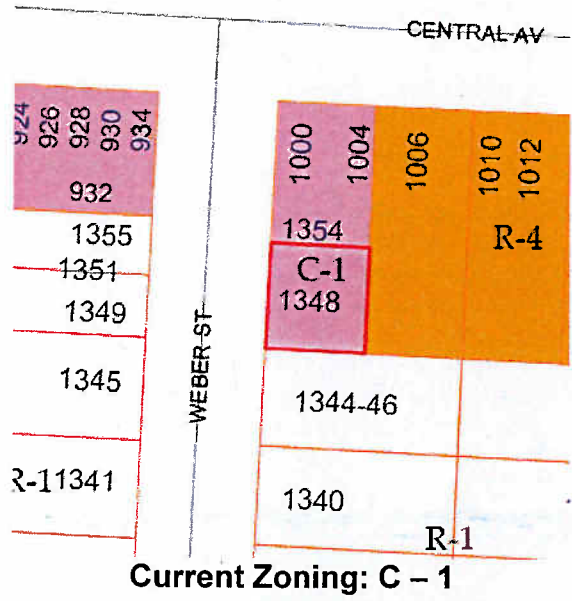
Lara Weisiger, City Clerk
City of Alameda

Introduction of
Ordinance #6-A CC
05-17-11

Approved as to Form

City Attorney

Exhibit A:



I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the ____ day of _____, 2011, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2011.

Lara Weisiger, City Clerk
City of Alameda